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PACIFIC  TELESIS  
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September 10, 1993

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

William F. Caton  
Acting Secretary  
Federal Communications Commission  
Mail Stop 1170  
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Washington, D.C. 20554

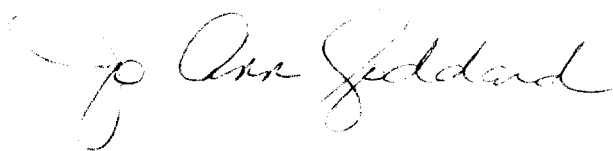
Dear Mr. Caton:

Re: *CC Docket No. 93-193 / 1993 Annual Access Tariff Filings; GSF Order Compliance Filings; Bell Operating Companies' Tariff for the 800 Service Management System and 800 Data Base Access Tariffs*

On behalf of Pacific Bell and Nevada Bell, please find enclosed an original and six copies of their "*Rebuttal*" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,



Enclosures

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SEP 10 1993

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
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1993 Annual Access Tariff Filings )  
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GSF Order Compliance Filings )  
 )  
Bell Operating Companies' )  
Tariff for the 800 Service )  
Management System and 800 )  
Data Base Access Tariffs )  
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CC Docket No. 93-193

REBUTTAL OF PACIFIC BELL AND NEVADA BELL

Pacific Bell and Nevada Bell (the "Pacific Companies") hereby respond to the Oppositions to our Direct Case in the above-captioned proceeding.

I. SFAS-106 COSTS SHOULD BE TREATED AS EXOGENOUS

MCI and AT&T continue to oppose efforts to have SFAS-106 costs treated as exogenous.<sup>1</sup> As the Pacific Companies explained in our Direct Case, carriers had no control over the FASB deliberations that led to SFAS 106 and the Commission's requirement to adopt it was clearly beyond their control. The standard implied in the OPEB order<sup>2</sup> that costs will not be treated as exogenous if they can be controlled in the future

<sup>1</sup> AT&T Opposition, pp. 2-13, MCI Opposition, p. 16.

<sup>2</sup> Treatment of Local Exchange Carrier Tariffs Implementing Statement of Financial Accounting Standards, "Employers Accounting for Postretirement Benefits Other Than Pensions", CC Docket No. 92-101, 7 FCC Rcd 2724 (Com. Car. Bur. 1992) ("OPEB Order"). This order is on appeal sub nom. Southwestern Bell Tel. Co., et al. v. FCC, No. 93-1168 et al. (D.C. Cir.).

would render the definition of exogenous virtually meaningless because with respect to future costs, carriers usually have some ability to "control" them.

AT&T's opposition is particularly puzzling because on June 30, 1993, AT&T filed a tariff transmittal that treats \$243 million in TBO costs as exogenous. This filing provides no cost support and no demonstration that the TBO accruals would not double count OPEB-related costs. While the local exchange carriers have filed extensive information, including the Godwins study, to support that OPEB-related costs are not double counted, AT&T made no attempt to meet its burden of demonstrating that exogenous treatment is warranted.

**II. "ADD-BACKS" MUST BE APPLIED CONSISTENTLY AND NEITHER SHARING NOR LOW-END ADJUSTMENTS SHOULD BE REQUIRED**

Both MCI and Ad Hoc Telecommunications Users Committee ("Ad Hoc") support "add-back" with respect to prior year sharing adjustments but not for low-end adjustments.<sup>3</sup>

Asymmetrical application of add-backs make no logical sense and must be rejected. Otherwise, there is the possibility of eventual under recovery similar to that addressed by the court in AT&T v. FCC. There the court rejected the automatic refund mechanism because it had the effect of preventing carriers from retaining earnings above the maximum allowable rate of return while requiring carriers to absorb any deficiency below the minimum allowable rate of return. Over time, carriers

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<sup>3</sup> Comments of MCI, pp. 26-29; Comments of Ad Hoc Telecommunications Users Committee, pp. 12-13.

would be unable to earn their overall authorized return.<sup>4</sup> The position of MCI and Ad Hoc that add-backs should only apply to the sharing amount would have an analogous effect.

As the Pacific Companies explained in our Direct Case, either type of add-back is inconsistent with price cap principles and should not be required.<sup>5</sup> It is irrelevant that add-backs are incorporated in rate of return regulation. Under price cap regulation, carriers are encouraged to reduce their costs by annual productivity adjustments and sharing of earnings that result from any productivity gains that exceed the adjustments.<sup>6</sup> The Commission has recognized that add-backs reduce the efficiency incentive by reducing the range of earnings permitted under the back-stop adjustments.<sup>7</sup> Consequently, there is no rationale to impose such a requirement, particularly as a result of a tariff investigation. As the Pacific Companies stated in our Comments, such a substantial departure from price cap principles should not be addressed in the course of adjudicating the reasonableness of individual tariffs.<sup>8</sup> The price cap performance review would

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<sup>4</sup> AT&T v. FCC, 836 F.2d 1386, 1391 (D.C. Cir. 1988).

<sup>5</sup> Direct Case of the Pacific Companies, pp. 5-7.

<sup>6</sup> In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, 5 FCC Rcd 6786, 6787 (1990).

<sup>7</sup> In the Matter of Price Cap Regulation of Local Exchange Carriers, Rate of Return Sharing and Lower Formula Adjustment, CC Docket No. 93-179, Notice of Proposed Rulemaking, released July 23, 1993 para. 14.

<sup>8</sup> Direct Case of the Pacific Companies, p. 8.

allow for careful consideration of add-backs within a thorough review of the entire price cap structure. Piecemeal changes can threaten the overall balance of risks and benefits envisioned in the price cap rules and should be rejected.

III. EXCLUSION OF END USER REVENUES FROM THE COMMON LINE BASKET FOR SHARING PURPOSES IS REASONABLE.

AT&T and Allnet oppose Bell Atlantic's exclusion of end user revenues from the common line basket sharing purposes and both note that Pacific Bell has also removed end user revenues from the common line basket prior to allocating sharing amounts.<sup>9</sup> Pacific Bell acknowledges that it has done so. To do so was completely reasonable.

End user common line charges are not developed using price cap methods. They are developed from "bottoms up" forecasted costs and volumes. Consequently, sharing will never be reflected in these rates. The chart that Allnet attaches even demonstrates why exclusion of end user revenues from the common line basket for sharing purposes is reasonable.<sup>10</sup> To include end user revenues would mean that 63% of the sharing would be allocated to only 16% of the revenues that are actually subject to price cap rules. This is not a cost-causative result.

The sole criterion for exogenous cost allocations, including sharing, is that the allocations shall be made on a

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<sup>9</sup> Opposition of AT&T, n. 64, Comments of Allnet, pp. 6-7.

<sup>10</sup> Comments of Allnet, n. 10.

cost causative basis.<sup>11</sup> In its order on the 1992 annual access tariffs, the Commission did sanction one particular allocation method, observing that "basket revenue can be used as a proxy for basket costs."<sup>12</sup> But it did not rule out all other methods and it properly avoided revising or adding to the price cap rules in the course of deciding the just and reasonableness of specific tariffs. As we indicated in our Direct Case,<sup>13</sup> if the Commission desires to change its rules to mandate that sharing be allocated to basket revenues including end user revenues, it should do so in its comprehensive reexamination of the LEC price cap rules next year.

IV. LIDB QUERY CHARGES ARE PROPERLY ASSIGNED TO THE LOCAL TRANSPORT CATEGORY.

AT&T argues that a new service category within the traffic sensitive basket should be established for the LIDB query charges.<sup>14</sup> This position exceeds the scope of the Commission's investigation. The Commission requested comment regarding to which category LIDB query charges should be

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<sup>11</sup> 47 CFR § 61.45(d)(4).

<sup>12</sup> 1992 Annual Access Tariff Filings, 7 FCC Rcd 4731, 4732 (n. 4) (Com. Car. Bur. 1992) (emphasis added).

<sup>13</sup> Direct Case of the Pacific Companies, p. 11.

<sup>14</sup> Opposition of AT&T, p. 38.

assigned.<sup>15</sup> The Commission did not suggest creating a new category nor should it have had. Establishment of new price cap categories involve a change in the Commission's rules and should not be established outside of a rulemaking proceeding.

LIDB query charges properly belong in the transport category because LIDB query costs are comprised entirely of costs that were allocable to transport under the Commission's rules.<sup>16</sup>

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<sup>15</sup> 1993 Annual Access Tariff Filings, National Exchange Carrier Association Universal Service Fund and Lifeline Assistance Rates, GSF Order Compliance Filing, Bell Operating Companies' Tariff for the 800 Service Management System and 800 Database Access Tariffs, CC Docket Nos. 93-193 et al., Memorandum Opinion and Order Suspending Rates and Designating Issues for Investigation, DA 93-762, released June 23, 1993, para. 105.


<sup>16</sup> These costs were assigned under Part 32 to accounts 2212, 2211 and 2232. Part 36 and 69 rules further identify these costs as transport.

V. CONCLUSION

The Pacific Companies' response to the comments on our Direct Case show our access rates are just and reasonable. Therefore, they should be permitted to remain in effect without change.

Respectfully submitted,

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Their Attorneys

Date: September 10, 1993



CERTIFICATE OF SERVICE

I, C. A. Peters, hereby certify that copies of the foregoing "REBUTTAL OF PACIFIC BELL AND NEVADA BELL" re CC Docket 93-193, were served by hand or by first-class United States mail, postage prepaid, upon the parties appearing on the attached service list this 10th day of September, 1993.

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